

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR  
PROTECTION CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF  
INVESTMENT SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the  
Liquidation of Bernard L. Madoff Investment  
Securities LLC,

Plaintiff,

v.

CRÉDIT AGRICOLE (SUISSE) S.A., and  
CRÉDIT AGRICOLE S.A., A/K/A  
BANQUE DU CRÉDIT AGRICOLE,

Defendants.

Adv. Pro. No. 12-01022 (SMB)

**CRÉDIT AGRICOLE'S COUNTER-DESIGNATION OF  
ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

Appellees Crédit Agricole (Suisse) S.A. and Crédit Agricole S.A. (collectively, the “Crédit Agricole Defendants”), by and through their undersigned counsel, respectfully submit, pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure and Rule 8009-1 of the Local Bankruptcy Rules for the Southern District of New York, their counter-designation of the record and designation of items to be included in the record on appeal with respect to the appeal

by Irving H. Picard (the “Trustee”), as trustee of the substantively consolidated estate of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act (“SIPA”), 15 U.S.C. §§ 78aaa, et seq., and Bernard L. Madoff, individually, in the above-captioned adversary proceeding (the “Adversary Proceeding”) of the Stipulated Final Order Granting Motion to Dismiss Complaint (the “Final Judgment”) before the United States Court of Appeals for the Second Circuit.

**COUNTER-DESIGNATION OF ITEMS TO BE  
INCLUDED IN THE RECORD ON APPEAL<sup>1</sup>**

1. All items designated or to be designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Final Judgment, including, without limitation, the items designated in the Designation by Appellant of Items to Be Included in the Record on Appeal (ECF No. 97);<sup>2</sup>
2. The Certification of Direct Appeal to Court of Appeals (ECF No. 99); and
3. A letter on behalf of the Subsequent Transferee Defendants regarding extraterritoriality briefing supplemental authority in Sec. Investor Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC (In re BLMIS), Adv. Pro. No. 08-01789 (SMB) (Bankr. S.D.N.Y) (ECF No. 13069).

**RESERVATION OF RIGHTS**

The Crédit Agricole Defendants expressly reserve the right to supplement the record on appeal or cross-appeal and to adopt the designation of any items designated or

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<sup>1</sup> Items designated include all exhibits and submissions attached thereto and, as to hearing transcripts, any and all documents admitted into evidence.

<sup>2</sup> Citations to (ECF No. \_\_\_\_ ) refer to docket entries from Picard v. Crédit Agricole (Suisse) S.A., Adv. Pro. No. 12-01022 (SMB) (Bankr. S.D.N.Y.).

counterdesignated by any other appellant, cross-appellant, appellee or cross-appellee to any of the appeals or cross-appeals from the Final Judgment.

Dated: April 11, 2017  
New York, New York

CLEARY GOTTlieb STEEN & HAMILTON LLP

By: /s/ Lawrence B. Friedman

Lawrence B. Friedman  
(lfriedman@cgsh.com)  
Elizabeth Vicens  
(evicens@cgsh.com)  
One Liberty Plaza  
New York, New York 10006  
T: 212-225-2000  
F: 212-225-3999

*Attorneys for the Crédit Agricole Defendants*